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Address before Texas welfare commission

TEXAS WELFARE
COMMISSION

ADDRESS OF
MR. E. P. RIPLEY

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And yet, so far as our own business is concerned, while we expect and hope for better conditions than we have had for the last two or three years, it is nevertheless a fact that we can not hope to increase our business sufficiently to make it a profitable one. I am proposing to tell the exact truth as to our conditions. I have already done that in my letter which I addressed to this Commission, and I can only amplify somewhat on that.

The steps which you have taken, the subjects you have been discussing and on which you have heard addresses, naturally divide themselves into two parts. One is the question of the so-called stock and bond situation in Texas, which has been rather thoroughly thrashed out, and concerning which I think there is still a great deal of misapprehension.

Texas was one of the first States to legislate on the subject of the regulation of the issuance of railroad securities. It was the outcome of a great many performances in Wall street and elsewhere that were indefensible. It was the outcome of a sort of saturnalia of issuing securities without consideration, and to a certain extent, perhaps, for personal profit and gain. As a consequence, the laws made by Texas, almost at first, away in advance of most States, were exceedingly drastic in their nature. Always in cases of that kind the pendulum swings to an extreme.

The time and occasion for that legislation has all gone by. Conditions are entirely different. The railroads are no longer practically the property of one man. It is no longer possible for one man or one group of men to issue securities ad libitum and pocket either the proceeds or any part of the proceeds. To-day I stand here representing no man, no group of men, even. There is neither any one man, nor any one institution, nor any one group or circle of men that control the \$550,000,000 of property that I represent here to-day. It belongs to 27,000 stockholders scattered all over the United States, and to a limited extent in Europe. They are men and women of flesh and blood, and very largely of moderate means. The largest holder has not to exceed 50,000 shares, I think, and the average is less than

200. Now, those people are the descendants of men who worked for their living; they are the descendants of just such men as we all are here; they are either the descendants or the men themselves; that money represents the savings and accumulations of some generations of thrifty ancestors. Their investments are just as much entitled to protection as the investment of any gentleman here present in the State of Texas.

The present stock and bond law has been thoroughly discussed and thrashed out. There are some things about it that are absolutely indefensible, and which result in making it exceedingly difficult to raise money in Texas, and I do not say that from the standpoint of our own road, because up to this time we have been able to raise whatever funds we wanted to expend in Texas without calling upon Texas laws in any way for the issuance of bonds. In other words, we have been able, by means of our credit acquired outside the State, to borrow money on that credit and spend it in Texas in spite of Texas laws. I do not know how long we can do that. We have built, in the last three or four years, some four hundred miles of railroad in the State of Texas without calling on the Commission to certify any bonds whatever. We simply build it with the proceeds of our bonds sold on the strength of our credit without it being a lien on the property itself. The property is without a lien to-day. So when I am speaking about this I am not speaking especially in the interest of the Santa Fe company. All that we have cared to do so far in Texas we have done without the aid of Texas laws, so far as financing is concerned.

But, of course, in practice the Texas law prohibits almost the construction of any new mileage in the State, unless it is done by some institution which gathers its credit outside of the State and uses its credit outside of the State for that purpose.

To say, as your Texas law practically does say, that no bonds will be authorized until the money is spent, is equivalent, as to any new promotion of small lines, to forbidding their construction. And that is something which perhaps we of the older lines have

not any serious bother about. Whatever criticism is to be made on that is to be made from the standpoint of the citizens of Texas rather than from the standpoint of a party interested in the Atchison company.

It is perfectly manifest as to the railroads here that almost without exception they are not what they ought to be. I have no disposition to soil my own nest or make any criticisms on the roads of Texas that do not apply as well to our own as to the others; but, as a matter of fact, the most of your railroads here in Texas are inferior to those west of the State, in western States like New Mexico and Arizona. I am almost prepared to say that you have not any good railroads in Texas, any way; you have some that are better than others, but you have a great deal of poor railroad.

Now, those roads, if they are going to do the work that is required of them, have got to be improved, and money has to be raised for that purpose. You won't furnish it; you can do better, you can get eight or nine or ten per cent on first-class real estate mortgages; somebody has got to be called upon to furnish that money. It does not make any difference what incumbrances are on the property now; such as they are, they were put there by authority of the State of Texas or under Texas laws, and if they are excessive, the State is as much to blame for it as anybody else. As a matter of fact, I do not think that they are excessive to-day; I think there are very few railroad properties in the State that are capitalized, taking stocks and bonds and everything else, at more than their actual value. But whether that is so or not, the securities that are now out were sold in good faith, they are in a sense a pledge of the credit of the State of Texas as well as the credit of the roads that issued them. And to undertake to deny the legality of these bonds or to refuse to permit earnings on those bonds is pretty nearly equivalent to repudiation of the State debt itself.

The present condition of things in Texas as to valuations I think is perhaps not very generally understood by the people,

even the people who have given it a good deal of study. At the time that railroad regulation and agitation on that subject were rife, and along in the early nineties, the State Commission of Texas was required to value the railroads of the State, which it did. In making that valuation it entirely disregarded the amount of stock and bonds which had been issued on those properties, and it entirely disregarded what those properties had actually cost. It made this valuation in 1893-4 at the time of the very lowest range of prices that had ever been known in this country for railroad building, either before or since. When it was remonstrated with and when it was alleged that those prices were too low, the answer was that the *reproduction* value was all that could be allowed, that the State of Texas proposed to take the value of the railroads as they stood, taking what it would cost to *reproduce* them, and to thereafter base the rates which the railroads might charge on that valuation.

The position that the Commission has taken since that time and which they claim they must take under the law, and possibly they are right — I do not attempt to say about that — but the position of the State as outlined by the Commission since that time is that that valuation made in 1894-5, at a time that everything was at its lowest possible notch, plus whatever has been spent since in the way of betterments, constitutes the valuation of the road. In other words, reproduction value in 1894 was all right from the standpoint of the State, but reproduction value in 1912 is all wrong.

Now, it does not need any argument to point out how inconsistent that is. I do not think a valuation particularly important, but if there is a valuation to be made it should be made either on the reproduction theory or on the cost theory, and the State should not distort the conditions in order to prove its case. It is too long and too abstruse a matter to go into in detail, but the present condition in that respect is very unjust.

That is all that I can say at present about the stock and bond law. As I say, it is not a matter of vital interest to this company,

at least for the present. But I, perhaps, ought to add that there is not any question about the desirability of the State's changing that so as to permit the railroads to make improvements if they want to borrow the money and can. If a man has a railroad that is worth, say, \$10,000,000, and about which there is some question whether it is worth \$10,000,000 or not (he calls it worth \$10,000,000, the State may not call it more than \$6,000,000) — but if that man wants to improve his railroad and wants to borrow money, say \$1,000,000, and can find anybody to lend it to him, the State will not let him issue the bonds. Now, if he borrows \$1,000,000 and spends it and issues bonds for it, he certainly has \$1,000,000 more property than he had before, and unless it is intended to repudiate all the bonds that are previously outstanding, that \$1,000,000 ought to be good and the State of Texas ought to be the last interest that would object to his borrowing it — if he can.

But outside of those questions of capitalization, the question of the stock and bond law, there is a very much more serious question, one which touches the mass of the people much more and one which affects the railroads very much more; and that is the question of whether the railroads are going to be adequately compensated for what they do. As a matter of fact, to-day the railroads in Texas do not get enough for the facilities they furnish. We have been going on here for years and years, never earning a fair return on what we have got, and yet putting more money in in a way that I thought and have thought that I could justify to our stockholders, but about which I begin to be exceedingly doubtful. We have continued spending money in the face of diminishing returns, I suppose partly from motives of pride. We have felt that we wanted to have a reputable institution and a road that we could all be proud of. As a result, we have a machine here that I am afraid, with all due respect, is too good for the State. We certainly can not earn interest either on what it cost or on what it is worth under any fair valuation to-day. Now, what are we going to do about it? If you can

furnish more tonnage perhaps we could get along with the rates we have got now; but it has got to be very much more tonnage and we have got to get more money for doing our business or else we have got to cut everything down to a lower scale and have a very much less satisfactory service, which I do not think is good for the State or good for its merchants. But I have induced our directors to put more money into the State of Texas than I think now I can justify. I have done it in a hope of better things for the future, but I tell you, gentlemen, they are awful slow coming.

I know that when we come to discuss advancing rates most men say, "Yes, you ought to have it," until it gets up to their own doorstep and affects them individually, and then they say, "Well, you will have to get that off somebody else, we can not stand it." I suppose there are comparatively few people in the State, or perhaps few in this room except those who have made a study of it, that realize what the condition of rates is in this State. That is caused by various regulations and various geographical conditions for which no one person is entirely to blame. But I can name a few instances which perhaps will serve to show the sort of thing we are laboring under. We have just built a railroad out through west Texas, as you all know. They are beginning to raise some cotton out there. I do not know how many people in this room know that at the extreme west end of that road, which is 450 or 500 miles perhaps from Galveston, we get substantially exactly the same money that we get if we haul from Waco. Now, what is the use of building a railroad out there under those conditions? The rate on merchandise from Galveston to Amarillo is the same as to Fort Worth, the same as to Waco, I guess — there is not much difference, pretty much the same. This so-called common-point territory and these blanket rates result in our hauling an enormous amount of business practically for nothing. In other words, we do not get any more for a long haul than for a short. Our average haul in the last year, Mr. Pettibone tells me, was 225 miles; that is the

average haul on *all* of our business. It was a longer average haul than that of any other line by forty or fifty miles, by thirty per cent, perhaps. And yet we get no more money per ton. That condition has got to be changed. We have simply got to have more money for doing our business, or else we have got to go backwards instead of going forwards. There is no encouragement, even assuming that we can raise all the money we want to, there is absolutely no encouragement to-day in adding anything to the railroad mileage in Texas or in adding anything to the railroads in the shape of betterments. We have had in mind in past years a good deal of railroad construction for Texas; we have had it in mind to spend a good deal more money, but it has stopped, and it is going to stay stopped for the present.

Now, I do not think of anything else that occurs to me at the moment to say. Would any gentleman like to ask any question? I would be very glad to answer.

MR. DUFF: Gentlemen of the Commission, Mr. Ripley says he will be glad to have questions asked him. I will confine the questions to members of the Commission at first, and after, if any of the gentlemen present desire to ask questions with reference to these subjects, Mr. Ripley, I am sure, would be glad to answer them.

MR. SIMPSON: I believe you have stated that you did not regard the valuation of property in the State of Texas by the Commission as having had a great effect on the basis of making rates?

MR. RIPLEY: No, I think not. I think that rates are made for commercial reasons, without much regard to valuation or even to the cost of railroad operations or properties. There are a great many things in the making of rates that limit what can be done, and many things entirely outside of the powers of the State of Texas and entirely outside of the powers of the railroads of Texas. The question of what is done in other parts of the country has a very serious bearing on it. And while the value of the property and the cost of the property is something that

any public body would have to take cognizance of in fixing rates, it is not primarily a moving cause or the prime factor in fixing the rates. A railroad company has got to do its business and make such rates as are necessary to move the business, regardless of whether it pays any interest or not; if it pays anything, if it pays the smallest fraction of a cent over and above the actual cost of the transaction itself, the railroad company should handle it, whether it pays anything towards interest or not.

MR. SIMPSON: And they do handle it.

MR. RIPLEY: And they do handle it.

MR. SIMPSON: Suppose the Commission was to quit making rates and it was left to the railroads to make their own?

MR. RIPLEY: I would not advocate that; that is to say, I would not advocate unrestricted rate-making by the railroads. I think in many ways the Texas Commission has been a help to the railroads, with all the friction that there has been occasionally, and with all the criticisms that we have made occasionally with reference to what the Commission has done; I think the railroads of Texas are better off to-day probably with the Commission than without it. There is a need, there is a necessity for a buffer of some kind between the railroads and the people, somebody that can tell both sides "where to get off," tell them where they are wrong; that is the necessity. That Commission, however, should be absolutely non-partisan, should be appointed for a long term, or for life, or good behavior, and should be absolutely debarred from seeking office or from being candidates for any other offices while on the Commission. They should be like judges —

MR. SIMPSON: I have heard a great deal said, when the question of rates before our Commission was up for discussion, that when they reduce the rates the plea always is, "Well, that is confiscatory." Now, it looks as though valuation would come in there, that there is a theory of value that comes in there when an attorney will go before the Commission and say, "Well, if you reduce that rate we say that is confiscatory." Where does that come in?

MR. RIPLEY: Well, confiscation may take a wide range; you may have total confiscation or partial confiscation or you may have confiscation of profits without having confiscation of property. When the Railroad Commission reduces the rate for anything but legitimate reasons, when the Railroad Commission reduces the rate to a point which we think does not do anybody any good and is wholly unnecessary and does not pay us anything to speak of, we claim it is confiscatory, because that is the only ground on which we can get into certain courts. The Constitution guarantees each individual certain property rights, and you can go into a court on the ground that your property is being confiscated, and that is the only ground.

MR. DUFF: But even there the Texas Railroad Commission's valuation made in 1894 cuts no figure?

MR. RIPLEY: None at all.

MR. DUFF: The courts open up that whole question and make the inquiry as to the value of the property now.

MR. RIPLEY: Yes.

MR. DUFF: And the courts have always declined to accept an ex parte valuation made by the Railroad Commission.

MR. RIPLEY: That is true. At the same time, it puts us in a hard position to go in and try to prove confiscation as to one rate. They may reduce the rate or make it confiscatory to a point that we think is ridiculous, and yet we can not go into court and prove that that particular rate in the great mass and volume of our business is confiscatory, yet that is about the only ground we have got to go on.

MR. DUFF: The difficulty there lies in the fact you can not single out, under the decisions of the Supreme Court, one particular rate.

MR. RIPLEY: No; that is the trouble.

MR. DUFF: You might find that that rate is in fact less than the cost of handling that particular traffic —

MR. RIPLEY: Yes.

MR. DUFF: But you have got to attack the entire scheme of rates.

MR. RIPLEY: Yes. We have some rates now in this State that are utterly indefensible, utterly absurd, and in many cases we can show that that particular rate is lower than it actually costs us to handle the goods; in fact, I think we have some cases where we can show all we get out of the business does not pay for the labor of loading and unloading. But we can not go into court with that particular case; they will say, "Well, what is the general result? Is your entire property confiscated?" "No." "Well, then," the court says, "the discretion of the Commission as to that particular thing governs."

MR. SIMPSON: Did you ever study the question as to amending the stock and bond laws as to what would be fair as between the people and the railroads, just what amendment it ought to have to be perfectly fair between the people and the railroads?

MR. RIPLEY: I think that all that is necessary as to the stock and bond law is, first, the law should be repealed.

MR. SIMPSON: A repeal?

MR. RIPLEY: A repeal of the present stock and bond law; that is first. The second, a provision by which all the money raised by the sale of stocks or bonds in this State should be accounted for to the Commission, not before it is spent, but within a reasonable time *after* it is spent. I think when the State authorizes an expenditure for a purpose it has the right to know that the money has been spent for that purpose and you can not say in advance what you want to spend the money for. That is one of the fallacies that has gotten into a good many stock and bond laws — you can not say in advance what you want to spend the money for. I may to-day want a million dollars to build a second track with, to build 100 miles or 200 miles of second track, and I apply to the Commission for the right to issue bonds for that purpose, and before I get through I find that the traffic has so shifted I want to use that million dollars to build reservoirs or new stations or a dozen other things.

But the State may provide that every dollar for which additional securities are issued shall be put into the property and that is all the State wants to know; it does want to know that.

MR. DUFF: How would it do to schedule — I am very much interested at that particular point — to schedule in general the purposes for which new securities may be sold, authorizing an application to the Commission.

MR. RIPLEY: Any schedule of that kind would have to be very general.

MR. DUFF: I mean do you mean the construction of new or improvement of old lines in items that would come under those things or the purchase of new lines or refunding of existing securities?

MR. RIPLEY: Yes.

MR. DUFF: And then, as we know has been the case in another instance, securities are sold for the purpose of building more new mileage and after the entire plan has been formulated and the securities actually sold, you conclude that you have more pressing necessities for the moment on your old line, how would it do then, under such a case, to have a stipulation in the law which would authorize you to report to the Commission the change of your plans and you be authorized to divert the moneys you have realized to any of those other purposes?

MR. RIPLEY: That is precisely what I am trying to get at, what I am arguing here. I say the State has a right to know what is done with the proceeds of the sale of stocks and bonds but they can not always know in advance; it would not be wise that they should know in advance; I may want to do something I do not want Tom, Dick and Harry to know; I do not propose to tell anybody about what I am going to do with it; I am willing to say that within twelve or twenty-four months thereafter, any reasonable time, I will account to the Commission for every cent of it and show where it has gone.

MR. SIMPSON: Take the road in Texas that has the highest encumbrance and indebtedness of all the roads, I do not know

what road that is, but say the road that has the highest encumbrance and indebtedness of all the roads in the State of Texas applies and gets the authority of the Commission to issue bonds to the amount of \$10,000 or \$15,000 per mile to put it in first-class condition. Would that additional expenditure and encumbrance and indebtedness have anything to do with the rates on that road?

MR. RIPLEY: I do not see how it could.

MR. SIMPSON: Now, when you came before the Commission for a raise in rates, wouldn't the plea be, "Look at all this indebtedness you have allowed and encouraged — we must have returns on that."

MR. RIPLEY: I do not know how much that plea would be made. I would say if the road was not earning more than a fair rate of interest on its actual value or its reproduction value to-day, that the Commission would not necessarily take any cognizance of that. I think a road is entitled to earn at least a moderate rate of interest on what it is worth. What it costs is entirely another question; it may cost more or it may cost less than it ought to have cost. But what it is worth to-day is a criterion.

MR. SIMPSON: In other words, if your roads wanted to spend \$25,000 a mile on all the mileage you have in the State of Texas, if you found a man that would take the bonds and would invest in the road, how would the people be affected?

MR. RIPLEY: I think they would be affected favorably, very favorably.

MR. SIMPSON: And you do not think they would be affected adversely at all?

MR. RIPLEY: Not in the least. When you put \$25,000 a mile in your property, it would certainly benefit a great many people either for the purpose of extensions or improvement in the service; it would benefit everybody.

MR. SIMPSON: And that affects the rates.

MR. RIPLEY: I don't think it would affect the rates. If we handled ourselves properly, we would not do those things until the business justified it.

MR. SIMPSON: The simple fact that the men would take the bond and take it at par would be something of proof that the property was worth that much.

MR. RIPLEY: Well, we think so, yes. We do not think that the State of Texas should interpose to prevent anybody taking Texas bonds if they want to buy them. I am not prepared to say that I would advise anybody to buy them now.

MR. SIMPSON: I understand.

MR. DUFF: As a matter of fact, the Texas stock and bond law was passed on the theory that there was a potential relevancy between the amount of railroad capitalization and the rates —

MR. RIPLEY: Yes.

MR. DUFF: — which might be fixed by the new rate-making body which had just been established in the State of Texas.

MR. RIPLEY: Oh, I understand that.

MR. DUFF: Now, that theory was exploded by the United States Supreme Court in 1898, wasn't it?

MR. RIPLEY: Yes, practically. The court said, my recollection is, that the capitalization was one of the factors, but it was one of the least, or words to that effect.

MR. DUFF: And if there were any material discrepancy between the amount of capitalization put out against the railroads and the then existing value of the corporation's property devoted to the public use, that they would take the latter as the criterion?

MR. RIPLEY: Exactly.

MR. DUFF: For the determining of the reasonableness of rates?

MR. RIPLEY: Yes.

MR. DUFF: Now, since the adoption of that theory by the United States Supreme Court, have you been able to see from any standpoint, speaking from the public standpoint, particularly the shipper, how the public can in anywise be interested in the maintenance of the Texas stock and bond law?

MR. RIPLEY: I do not think so; I can not see how the public

can be interested in the maintenance of the Texas stock and bond law in the least.

MR. DUFF: It has been asserted that since that it has merely stood as an arbitrary limitation to prevent the railroads of Texas from selling securities with which to get money for improvements and expenses.

MR. RIPLEY: I think so.

MR. DUFF: Has that been your experience?

MR. RIPLEY: That has been my experience; I do not know of any railroad that has been built in Texas since that time except on the credit of railroads outside of the State; the result of that has been that there have been almost no independent railroads built; they have all been built as adjuncts to big systems.

MR. DUFF: What has been the difficulty of the system — take for instance, a line projected, we will say, from Fort Worth to Houston as a new proposition, put together by Fort Worth and Houston people, we will say, and they naturally did not have a sufficient amount of money in their own pockets or bank accounts to pay for the construction, after they should form their corporation and run their preliminaries and fix their location — and we will say they had enough money to do that — then they would attempt to go out to get underwritten the project: can they, under the stock and bond law as it now exists, in advance of construction, make a contract definitely stating — or they may know how much money per mile they need to build that railroad, the engineers' estimate shows it — can they specify, under the existing law, how much stock and bonds they can give in return for that money?

MR. RIPLEY: No, they can not; they can not tell at all what they are going to get until after it is finished and the Commission values it.

MR. DUFF: Now, is it practicable in the financial world with which you have dealt so many years, to make a contract for the underwriting of any project of magnitude on those terms?

MR. RIPLEY: I do not think so; it can be done by some corporation with established credit outside of the State.

MR. DUFF: Do you know of any other State or country on earth that has the same statute governing the financing of railroads?

MR. RIPLEY: I do not. I am not well experienced in that, but I never heard of it anywhere else. Furthermore, all the States that have been dealing with this question of valuation, which is becoming quite fashionable lately, have valued their properties on an entirely different theory; that is, they have valued them on the reproduction value — Wisconsin and Dakota.

MR. DUFF: That is according to the decision — to the decisions of the United States Supreme Court?

MR. RIPLEY: Yes, sir.

MR. DUFF: Now, taking the question of the valuation of a railroad for rate-making purposes, isn't that the only point where action is ever gotten on the theory of the Supreme Court, merely in the rate cases where the Supreme Court is undertaking to determine the reasonableness —

MR. RIPLEY: Yes, sir.

MR. DUFF: — of a system of rates with reference to a group of roads?

MR. RIPLEY: Yes. I do not think there has been any issue made on valuation except in cases of that kind. And even in Texas I do not think the Texas Commission has made any practical use of the valuation made in 1894 and 1895 except as a justification or excuse for some reduction that they have made. They have not attempted to hew to that line at all.

MR. DUFF: Take for instance, the Houston & Texas Central between Houston and Dallas, one of the oldest lines in the State and one of the most highly capitalized and one of the costliest pieces of property; suppose another line of railroad were built of low standards and relay steel and two or three per cent grades that we will say would not cost half as much money: is it likely or could there be under competitive conditions any discrepancy

in the rates as between the Houston & Texas Central and that new cheaply built line?

MR. RIPLEY: No, not at all. The old line, the better line, might get the preference, the rates being equal, but it would have to meet the rates on the other.

MR. DUFF: As a matter of fact, construction of that sort has been done in Texas. Has the construction of such new lines in fact created any material readjustment of the rate situation in Texas?

MR. RIPLEY: No; it can not. There is a good deal of absurdity in establishing one set of rates for the entire State of Texas. It is rather ridiculous that the same scale of rates should govern in this thickly settled central belt of the State — take the line of the Houston & Texas Central — it is so ridiculous that the same set of rates should govern there as govern out in West Texas where nobody lives and where there is not any business and won't be any business for years after a railroad is built. But the same distance rates govern. Texas is so big that you get every variety of soil and climate and products and you have to deal with an entirely different set of conditions in one part of the State from those that exist in another. There is no reason why a rate between Lubbock and Amarillo, over a country which three years ago was a desert and which now is not one-sixth cultivated, and on which there is not business enough for a train a day, there is no reason why the rates there should be the same as between Houston and Brenham or Dallas and Brenham; and yet that is the law.

MR. DUFF: Do not operating expenses in different sections of the State also vary?

MR. RIPLEY: Yes.

MR. DUFF: Take the Texas Central, for instance, that has an operating ratio of 59 — that runs from Waco out to Rotan —

MR. RIPLEY: Yes.

MR. DUFF: It has an average operating ratio of 59, say right around 60 per cent of the gross earnings. On the Santa Fe, I take

it, your average operating ratio is probably fifteen points higher, isn't it?

MR. RIPLEY: Yes, 76 and 77.

MR. DUFF: So it costs you \$15 to \$16 more to earn \$100 than it does the Texas Central.

MR. RIPLEY: Yes, sir.

MR. DUFF: But your rates are the same.

MR. RIPLEY: Probably on that particular line we earn so many more dollars that it makes it more profitable primarily. But the reason the Texas Central makes those earnings is not because of the rates it gets locally.

MR. DUFF: No; no.

MR. RIPLEY: It sells its business, by reason of the competition that is existing, for the reason that it has been able to sell its business to the railroads with which it connects, and instead of getting the Texas Commission rate it gets twice the Commission rate.

MR. DUFF: Reference is made not infrequently to the fact that the average ton-mile earnings throughout the United States is $7\frac{1}{2}$ mills, whereas the average ton-mile earning in the State of Texas is right around an even cent.

MR. RIPLEY: Yes.

MR. DUFF: And the reference is usually made as indicative of the fact that Texas rates are on the average higher than the rates throughout the United States.

MR. RIPLEY: Yes.

MR. DUFF: What is your explanation for that situation?

MR. RIPLEY: Well, you can make another statement that is almost as startling as that. I think you will find that the average local rate in Texas is lower on some commodities than the average local rate in Massachusetts. Now, the question of local rates and the question of through rates are entirely different things. The great volume of traffic, of course, is interstate.

MR. DUFF: You don't mean with the same mileage?

MR. RIPLEY: Yes, I do; I mean for the same mileage. I

think you will find that the rate on coal, for instance, from Boston to Worcester is higher than for the same distance in Texas — it used to be, I have not looked it up lately, but that is my impression to-day; and there is the same difference between the local and through rate; it exists everywhere, because the rate per ton-mile naturally decreases with the distance and what makes those extremely low rates per ton-mile is the mixing in of a thousand or fifteen hundred or two thousand mile haul which necessarily is taken at a low rate per ton-mile or not taken at all, and there is more profit, even in a thousand-mile haul at 7 mills, very often, than there is in a hundred-mile haul at 3 cents, as a large portion of that expense is your loading and unloading, which is the same in both cases; if you get it on the road and get it to wheeling, the expense does not increase in proportion to the distance.

MR. DUFF: My understanding is that is a comparison of rates applicable obtained by dividing the amount of gross earnings by the net tons of freight handled.

MR. RIPLEY: Yes.

MR. DUFF: Which would include State and interstate traffic.

MR. RIPLEY: Yes.

MR. DUFF: Explanation has been made in reference to that subject that the average ton of freight in the State of Texas classifies much higher than the average ton throughout the United States.

MR. RIPLEY: Yes.

MR. DUFF: On account of our heavy movement of cotton, hardware, machinery, etc., in the State and the small amount of coal and ore that we handle.

MR. RIPLEY: Yes, that is true; that is one of the reasons.

MR. DUFF: For instance, Mr. Trumbull says his average ton-mile on the Chesapeake & Ohio is 4.4 mills.

MR. RIPLEY: Yes.

MR. DUFF: He also says the Chesapeake & Ohio is capitalized for exceeding \$100,000 a mile, and yet he earns a better return

on his investment and is able to pay his interest and some dividends.

MR. RIPLEY: Yes.

MR. DUFF: Whereas he has never been able to do either with the M. K. & T. in Texas?

MR. RIPLEY: Exactly. Well, if you will arrange to store our railroad up to its capacity between here and Galveston you won't have any trouble about rates, we will reduce the rates pretty fast.

MR. DUFF: You will voluntarily reduce rates?

MR. RIPLEY: Yes.

MR. DUFF: It is a question of density of traffic.

MR. RIPLEY: Yes.

MR. SIMPSON: You said a few minutes ago you thought there ought to be a different set of railroad rates in this State, in the separate parts, different in the West from in the East?

MR. RIPLEY: Yes.

MR. SIMPSON: Speaking from hearsay, I understand the Fort Worth & Denver earns more per mile than any road in the State.

MR. RIPLEY: The Fort Worth & Denver the last two or three years has been very prosperous. I think there are two or three reasons for that. One reason is it is a straight line with no terminal stations, practically no terminal expense; it gets everything at one end and delivers it at the other with but very little intermediate expense, very little terminal expense. Another reason is it has no branches; it is a perfectly straight, simple proposition. And another and perhaps the principal reason is that that particular country through which the Fort Worth & Denver runs has, in the last two or three years, had an enormous growth and an enormous acquisition of population, resulting in a very large immigration into that territory and the building of a great many towns and the increasing of towns already established; so they have had, on a small scale, what might be called a boom. Whether that is permanent or not I do not know. There are

various things that have contributed to the value of that piece of property.

MR. SIMPSON: Don't that same thing pertain to all the western roads?

MR. RIPLEY: Yes.

MR. SIMPSON: Haven't they all had something of a boom?

MR. RIPLEY: Well, no —

MR. SIMPSON: Influx of settlements?

MR. RIPLEY: Oh, there has been considerable of that, yes. We have had that in the northwestern part of the plains country to our Pecos Valley line running down to Portales and Texico, there has been very much improvement — it is very much better than it was a few years ago. We held the bag on that a long time and didn't get very much out of it, but now it is coming up better, but we have about ten times as much money in it as we have taken out; we have made a railroad where there was nothing but a right-of-way before.

MR. DUFF: To bring out more clearly the situation in regard to the old outstanding bonds issued prior to the passage of the stock and bond law, I want to ask one or two questions: Prior to the passage of the stock and bond law in 1892, the railroads of Texas had the same freedom in regard to the issuance of their securities that they then had throughout the balance of the country and which practically still obtains. In that time, I understand several hundred millions of dollars of securities were sold, with which eight thousand miles of main track then in existence were built. Then came the passage of the stock and bond law, which required the Railroad Commission to make valuations on the Texas railroads for a — as a limitation for the issuance of bonds. Those valuations you have described as having been made in a period of depression and even at the time made represented a much lower figure per mile than the cost of those railroads. For instance, if I remember correctly, the main line of the Santa Fe was valued at about \$17,000?

MR. RIPLEY: Yes.

MR. DUFF: Take lines like the Houston East & West Texas through east Texas that were valued at \$10,000 a mile. Take that case in particular; it had out about \$25,000 per mile of securities. Do you remember what your outstanding aggregate of bonds was at about that time?

MR. RIPLEY: I think it was about — I do not remember the outstanding aggregate.

MR. DUFF: I mean per mile.

MR. RIPLEY: And I am a little doubtful at that time of the amount per mile, but I think it was about what it is now, about \$34,000.

MR. DUFF: Now, those bonds, you and your company had sold to investors?

MR. RIPLEY: Yes.

MR. DUFF: Are they still pretty well scattered?

MR. RIPLEY: No; those bonds, almost without exception, belong to the Atchison Company.

MR. DUFF: But there are still some of the securities scattered?

MR. RIPLEY: Some still out; yes.

MR. SIMPSON: They are held by the Atchison Company. Now, why is that, because you can not place them, or do you just use them as collateral — can not they be placed on the market?

MR. RIPLEY: They are collateral; we could not place them on the market and sell them at anything like as much as we can sell our own bonds; we hold them in our treasury and issue our own bonds.

MR. DUFF: You have issued securities against them?

MR. RIPLEY: Yes.

MR. DUFF: And those securities are there?

MR. RIPLEY: Yes.

MR. DUFF: Though in the main those securities of the Santa Fe then outstanding now constitute the security of a large number of people for obligations that they have made?

MR. RIPLEY: Yes.

MR. DUFF: What I wanted to ask you is what in your opinion — well, to go along a little further before I ask the question — the rates which have been fixed by or for the Santa Fe during the time that has intervened, have they sufficed to enable you to create a sinking fund for the reduction of those original obligations?

MR. RIPLEY: None whatever.

MR. DUFF: Those original obligations, the proceeds from which built these properties?

MR. RIPLEY: The time that has elapsed since we took those securities, during the time, I am not quite able to say, because my recollection goes back only about sixteen years, but during that time I think the interest has averaged — well, the money that we have invested in those properties plus the money we have put in since, has paid us, I think, about $2\frac{1}{2}$ per cent.

MR. DUFF: Two and one-half per cent. Well, to the contrary of realizing a sufficient fund as the result of the operation with which to redeem the principal of your debt, does not the decision of the United States Supreme Court now authorize rate-making bodies to limit rates so as to produce a mere return on the property forever preclude the hope of being able to redeem the principal of the bonds?

MR. RIPLEY: Yes.

MR. DUFF: What is your recourse to take care of those outstanding obligations?

MR. RIPLEY: It is different in the different States. In Kansas we go to the Commission and ask it to issue so many bonds to refund so many outstanding bonds.

MR. DUFF: That is the ordinary course?

MR. RIPLEY: Yes.

MR. DUFF: That is to say, to make a refunding mortgage and refund your own obligations?

MR. RIPLEY: Yes, sir.

MR. DUFF: Suppose you were to attempt to do that in Texas under the valuations now existing on your railroad here, what

would be the net results, what would be the discrepancy between the amount of bonds now issuable and those which you sold twenty-five or thirty or more years ago?

MR. RIPLEY: Well, I can not tell exactly, because it would require a computation based on what the road was originally valued at plus what we have spent on it since; but it would be entirely out of the question for us to do that. As a matter of fact, those bonds have expired a long time ago; their time limit has expired; they are still in our treasury, but, of course, we could not refund them except in the way I have said, by issuing our own bonds.

MR. DUFF: Then if the Atchison itself were not carrying these obligations and they were scattered throughout the world, you would have a foreclosure, wouldn't you, on the Santa Fe property?

MR. RIPLEY: The Gulf, Colorado & Santa Fe Railroad is bankrupt to-day.

MR. DUFF: How long has it been running — since about 1871 when they started to build, wasn't it?

MR. RIPLEY: I think so; about that time.

MR. DUFF: Nearly forty years have passed since that original investment began to be made and at the end of forty years of operation continuously in Texas you are not able to stand on your feet?

MR. RIPLEY: No.

Now, I want to say right here that it has been intimated several times that these roads in Texas that are controlled by systems outside of the State have been unfairly used, that they have been milked?

MR. DUFF: Yes. The differential question.

MR. RIPLEY: For the benefit of the lines outside of the State?

MR. DUFF: Yes.

MR. RIPLEY: That has been intimated by the Commission on one or two occasions, in one or two of their reports, I think; they have not charged it directly, but that has been the intima-

tion. On several occasions of that kind I have written to the Commission or Judge Terry has written to the Commission and invited and challenged an investigation of that charge, but there has never been one made. We still invite it and we would like it very much. If we are not treating the Gulf line right, we would like to know it.

MR. DUFF: What form would you suggest that that investigation might take?

MR. RIPLEY: I do not care; I am willing that it should take any form that the Commission wants or that anybody wants.

MR. DUFF: Give publicity to the investigation?

MR. RIPLEY: Absolutely.

MR. DUFF: We have encountered that question so frequently that we personally — I feel very much pleased to hear you make that statement and suggestion. Mr. Trumbull did the same thing.

MR. RIPLEY: There has been a good deal of talk of that sort and talk about absentee ownership, absentee landlordism, so to speak. Well, now, of course, the people who own this property live everywhere, all over, unfortunately not many of them in Texas and equally unfortunately they have selected me to preside over their destiny — now, of course, it is unfortunate for me, too, that I can not live in Texas, and yet when you consider if everybody wanted to live in Texas, it would be crowded; you can not cut this country up into small sections and say that one man must live here and another live there. We have our representatives here. Mr. Pettibone is here now and he has been with you here a long time; we have always had a responsible management down here that has been unhampered, and I do not think they have any criticism to make. They do have to come to me when they want money, but they don't come to me for much else.

MR. DUFF: If the people of Texas are ambitious to own their own railroads and do away with this matter of absentee ownership —

MR. RIPLEY: We would be delighted; they can have ours any time.

MR. DUFF: There is plenty of stock on the market to be bought, isn't there?

MR. RIPLEY: They can have ours any time.

MR. DUFF: I see that the Santa Fe situation with regard to those old outstanding securities differs to an extent from others of the railroads that we have been told about, because evidently, in order to protect your situation, you have had the Atchison to go up and buy these bonds to prevent foreclosure?

MR. RIPLEY: Yes, sir.

MR. DUFF: However, what I am driving at is this: Suppose in the instances of railroads where they either have not been able to or have not seen fit to pursue that policy, these obligations do mature and it be found that under the '94 valuations refunding bonds can not be issued, or, if issued, for an amount much less than the existing obligation — what, in your opinion, would be the effect of that practical confiscation of securities?

MR. RIPLEY: Why, I think it would be foreclosure, and I think it a very great injustice to the holder of securities; I do not think it is decent treatment of people who own those securities, who buy them innocently, for the State to take such action as will render them worthless or partially worthless.

MR. DUFF: By an ex post facto law passed many years after their issuance?

MR. RIPLEY: No, I do not.

MR. DUFF: What do you think would be the effect of such a situation on the general credit of Texas enterprises?

MR. RIPLEY: My opinion is not worth any more, on that, than that of any other gentleman present. I do not think it would be good. So far as that is concerned, it seems rather unnecessary to state that the credit of Texas in that line is not especially good at this moment.

MR. DUFF: Now, I want to ask you a question or two. There has been in Texas a boggy man that we are investigating

the genesis and substance of, and that is in regard to the consolidation of railroads. That your end-to-end properties, or your lateral line, non-competitive lines, what amendment, if any, would you suggest to the Texas statute relating to the consolidation of non-competitive and non-parallel lines of railroad which can not be sold without an act of the legislature?

MR. RIPLEY: Well, I think you have correctly described that notion as a boggy man. It seems to me that the present condition is rather harsh and rather absurd. For instance, we have twenty-six miles of railroad running from the New Mexico state line to El Paso; it is our little dead end on which we reach El Paso. Under the laws of the State of Texas we have to maintain a full force of offices and a separate organization for the twenty-six miles of railroad at El Paso. It is not a very big matter. We do it cheaply, but it would perhaps cost us \$15,000 or \$20,000, and is just money absolutely wasted and thrown away. That is only one case.

We have also the Texas & Gulf over here and the Gulf, Beaumont & Kansas City and the Gulf & Interstate. We have to maintain separate organizations; they are all parts of one system, and they are all, as you say, end to end. I think it is all a "boggy man." As far as that is concerned, I think it would be a good thing for the State if all the railroads in the State could be forced to consolidate in one; it is the best thing that could happen to the State; you would have one responsible organization and the business would flow over the lines of least resistance and be done in the cheapest possible way, and if they were all consolidated in one you could get the business done cheaper than under the competitive system.

MR. DUFF: And the rate being fixed by the Railroad Commission, the rate system would not be affected?

MR. RIPLEY: No, how could it; the business would be done cheaper, and as long as the Commission itself controlled the rates, what is the objection to putting it all under one hat — that is,

if the owners do not object; it would be difficult, of course, to do it.

But this whole talk about the preservation of competition between carriers is archaic, out of date, because the idea of competition has practically ceased, and it is going to cease more and more.

MR. DUFF: The governmental rate-making body necessarily does away with competition in rates.

MR. RIPLEY: Very largely. Of course, the idea that has been prevalent is that the government regulating body exists for the purpose of preventing advances in rates and that competition will force reductions below that, but that won't last very long — there will be practically no reduction; as time goes on it will be found that the rates that are fixed by law are going to be the rates.

MR. DUFF: Now, the Santa Fe has purchased various small lines in the State of Texas. Take, for instance, Mr. Kirby's railroad, the Gulf, Beaumont & Kansas City, the Gulf, Beaumont & Great Northern, the Dunwoody & Aldrich, the Cane Belt, and then back in earlier days, the branch line from Summerville over to east Texas and so on, have you improved the standards of construction and equipment and service of those various small lines that you have bought since you bought them?

MR. RIPLEY: Well, I reckon you can safely ask that question of anybody that has been over there. Of course, they are very different propositions; they more nearly resemble the real thing than they did before.

MR. DUFF: Well, in the main, what was the physical condition of those properties when you purchased them? Those short-line properties?

MR. RIPLEY: I would hate, especially out of regard for Mr. Kirby and some of our friends, to say what I think about that.

MR. DUFF: I am thoroughly familiar with some of those properties, but many of our Commissioners are not, and I do not believe Mr. Kirby, who is one of our Commissioners, would

object if you would describe the difference in the physical condition of those short-line roads then and their present condition.

MR. RIPLEY: They were practically logging roads. They bore a distant resemblance to a real railroad; that is about all I can say about that.

MR. DUFF: Have you spent money for grade reductions and bank widening and ballasting?

MR. RIPLEY: Yes, we have rebuilt them entirely; they are a different proposition.

MR. DUFF: Heavier rails?

MR. RIPLEY: Yes, sir. I do not think there is any of the original structure of any of those roads left now.

MR. DUFF: Isn't that the history of short lines bought by system lines in Texas practically?

MR. RIPLEY: Usually, yes. It is with us. But maybe, as I have said, we have done too much.

MR. DUFF: How have those consolidations, those improvements on these short lines, affected the rates chargeable for transportation of freight and passengers on those lines?

MR. RIPLEY: There have been no changes except by way of reductions; there have been no advances. There ought to have been some advances, but there have not been.

MR. DUFF: What changes have occurred in the service?

MR. RIPLEY: Oh, the service is infinitely better, of course, in every way.

MR. DUFF: Now, another proposition in that same connection: Now, you take myself or Mr. Cain, or other Texans, who sometimes get out on the limb and build or buy up short lines of railroad, undertaking to develop them with the hope of marketing them to you gentlemen who have your big systems; how does that affect the chance for the marketing of the short-line railroads, for the legislature to prohibit consolidation, substantially prohibit the purchase?

MR. RIPLEY: Why, of course, it interferes with the market. Those things have been done sometimes; we have done them our-

selves, but we do it with the knowledge that we have got to maintain separate organizations, and it is that much of a drawback on the purchase. That provision does not serve any good purpose.

MR. SIMPSON: Speaking of Texas, you understand, the Texas roads, you take the Gulf, Colorado & Santa Fe and the M. K. & T. of Texas or the T. & P.—or hardly the T. & P., for that is a different proposition—they have no financial standing in the markets of the world, have they?

MR. RIPLEY: No, no.

MR. SIMPSON: They really have no financial standing in the market?

MR. RIPLEY: None whatever.

MR. SIMPSON: And it would be practically impossible for a man to go out here and build an independent line wholly in the State of Texas and get money.

MR. RIPLEY: I think so, yes, unless he could raise the funds perhaps for a short line here in Texas; he would have to raise the funds in Texas, he would be limited to Texas; he can not get any money outside.

MR. DUFF: This Commission is considering a number of matters in connection with railroads and railroad securities. For instance, the matter of recoveries in personal-injury action, and, as you know, we are considering the stock and bond law involving the idea of enabling the issuance of securities to make better railroads, that is to say, lay heavier steel and make grade reductions, and so on. Do you think that, taking the present Texas rate fabric as it is and giving our railroads liberty to issue their securities in reason to make the betterments desired, make better properties, properties which can be operated cheaper—if possible to effect some form of change for the better in the personal-injury situation—that if those matters of substantive law with which the legislature deals, as it does not deal with rate matters, can be accomplished, that you can stand up, instituting economies in railroad operation, that you can stand up under the present rate system until the growth and development of the

State and the increasing density of traffic will take care of you, assuming that the present rate bases will be made stable and be kept stable?

MR. RIPLEY: Well, if I understand that question, I should say no; I should say that your conditions are impossible; I should say that you can not get the money that is necessary to make such improvements as you are discussing and to reach the economy you want to reach until there is some prospect of earning money to pay the interest on that amount.

MR. DUFF: I will say in that question or possibly remind you of the fact that when the Railroad Commission's laws were passed, the railroads in the State of Texas were earning an average of \$4,500 a mile gross.

MR. RIPLEY: Yes.

MR. DUFF: That to-day the railroads of the State of Texas earn, on an average as I recall, a little better than \$7,000 a mile.

MR. RIPLEY: Yes.

MR. DUFF: So that you see with a reduction in the rates of probably 25 per cent on an average since that time, the gross earnings have steadily increased until now they are at least 75 per cent more than what they were at the time of the passing of the railroad commission law.

MR. RIPLEY: That is due to two things: it is due to the natural increase of the State and the business of the State and the additional money that has been put into the railroads to enable them to handle the business, but the net has not improved in proportion.

MR. DUFF: No, the net has not improved in proportion, but it has improved.

MR. RIPLEY: Naturally, and the net is bound to be larger, for you have twice the investment you had before; but the percentage is not large.

MR. DUFF: What I was trying to get at is your idea whether, it being plainly perceptible that there is increasing density of traffic, including, of course, your increased interstate business,

the movement of large additional stock through the gulf ports traffic, both in-bound and out-bound, which takes the interstate rates, of course, whether or not, if the State of Texas will rectify this among other things we are speaking about, and permit the present rate situation to remain stable, whether in the process of time it would not work out all right?

MR. RIPLEY: Well, *quien sabe?* In process of time, it may, but the intervening time is going to be exceedingly painful.

MR. DUFF: Do you think it would require a long series of years?

MR. RIPLEY: Yes, I do. The first thing the railroads of Texas have to have is more rates.

MR. DUFF: Mr. Pettibone has shown me an extremely interesting figure, arising out of our discussion at the Houston meeting, about the ton-mile rates — I mean the earnings per ton mile — as I have said a while ago it was disclosed there that the average per ton mile throughout the United States was $7\frac{1}{2}$ mills and the light traffic average in Texas was about a cent.

MR. RIPLEY: Yes.

MR. DUFF: Mr. Pettibone says that in order for the railroads of Texas to earn an average income earned by all railroads throughout the United States, the ton-mile rate in Texas would require to be 1 cent and $3\frac{1}{2}$ mills, or nearly double the average throughout the United States. Is that to be accounted for solely on the difference in the density of traffic between Texas and the other States?

MR. RIPLEY: Well, partly that and partly in the conditions. The average character of classification of tonnage in Texas, as you said a while ago, would be considerably higher, but the rate per ton mile is higher. Really, it does not cut very much figure unless you know all the conditions; you can not compare them in one place or the other place without comparing other conditions, without bringing in other conditions which absolutely vitiate the comparison. A rate of 10 cents per ton per mile on a limited

traffic won't support a train a day anywhere. There are so many things that enter into that that it is impossible, almost, to tell.

MR. DUFF: Mr. Trumbull and Judge Lovett both made reference to the fact that in these days of close economies they have been able to take care of themselves and institute economies in operation by increasing the train load, and they complain that the large number of low minimum train loads in Texas made by our Railroad Commission gave them difficulty in increasing the train loads. Do you feel than on your system?

MR. RIPLEY: Yes, that is true; that should be rectified, but it does not do any good to increase the train load, or, rather, it is impossible to increase the train load when you haven't got the business; on a large portion of our lines we simply haven't got the business to make a train load, so such an amendment of increasing facilities for increasing train loads does not count.

MR. DUFF: That particularly refers to your side lines.

MR. RIPLEY: Yes, sir; side lines or branch lines.

MR. SIMPSON: You said something a while ago about you thought there ought to be a difference per ton per mile on freight as between the densely settled parts of the State and the extreme west, where there was little or no tonnage?

MR. RIPLEY: Yes.

MR. SIMPSON: I wish you would explain that a little further.

MR. RIPLEY: Well, I think I did explain. I think I said about all I could say about that. I said it was so absurd that the local rate per ton should be the same, that the rate on a car of coal should be the same between two points like Dallas and Brenham that it was for a similar distance in the western part of Texas, where there is very little population, in the very sparsely settled districts. The same is true of other things, on merchandise and all that sort of things, for instance, business where we do not have a train load a day. It takes money to support a railroad, and we ought to get higher rates than we do in this sparsely settled country.

MR. SIMPSON: In other words, then, you are hauling the

freight in the sparsely settled parts of the State largely at the expense of the well-settled part?

MR. RIPLEY: Well, yes, if you put it that way; yes.

The railroad is supported for the present out of the main line.

MR. HUFF: Are there any differences in the rates in western Kansas and eastern Kansas?

MR. RIPLEY: No, there is not; there ought to be. There is no State that has the variety and radical difference that Texas has because it covers so much area, and there is no State that is as new and as raw as the western part of Texas.

MR. DUFF: It is practically all in differential territory.

MR. HUFF: Where the railroads make their own rates, say, in New Mexico, what is the percentage of difference between them and the Texas and Kansas rates?

MR. RIPLEY: The New Mexico rates are much higher; I can not tell you what the percentage is, but very much higher than in Texas; they are so much higher that when we built our line through Texas to Texico we had to make violent reductions in our New Mexico rates west of there, because the Texas rate applying to Texico reduced our through rate.

MR. DUFF: Can you suggest a practical method whereby an impartial, fair inquiry might be made concerning Texas rate situation in general and an adjustment satisfactory to the shippers and the railroads affected?

MR. RIPLEY: Well, the difference between the buyer and the seller has existed from time immemorial. You will never reconcile absolutely the shippers and the railroads, because the shipper wants to pay as little as he can and the railroads want to get all they can; at the same time the shippers that are interested in rates (they are not all interested), those that are ought to be big enough and broad enough to see that there is a situation here that will have to be changed in some way. And my notion of it would be, the only thing that has occurred to me would be, that your Commission endeavor to appoint and select a committee, not too large, but a committee that can handle itself, to meet

with the railroads or the Commission, or both, perhaps first with the railroads and endeavor to come to some understanding, try to get something they can recommend to the Commission. And perhaps that same committee might take up the questions otherwise to the legislature, but that is a matter for you to consider. I think, as far as the rate question is concerned, it is a complicated one, and one that will have to be thrashed out by a comparatively small committee around a table; you can not do it in caucus — I believe that a recommendation from such a committee ought to have a good deal of weight. That, I should say, was the initial way to get at it.

MR. SIMPSON: The trouble with the question is, as you have already said and everybody here knows, I am perfectly willing for the rate to be raised on my neighbors, but I don't want it to touch me.

MR. RIPLEY: Well, that is the trouble, of course, and yet, after all, when the raise takes place, if it is properly arranged and hits everybody alike, it does not change the real situation very much.

MR. SIMPSON: That is a fact; it makes little difference whether high or low, so everybody gets it.

MR. HUFF: Some time ago you spoke of the fact that the distance at which the maximum rate should apply reached about 225 miles, and that you thought that unfair where you had to haul from Lubbock to Galveston for the same price as from Waco?

MR. SIMPSON: Mr. Huff, what increase of mileage do you think would be fair?

MR. RIPLEY: Well, I do not believe in a maximum rate at all. I do not see why the land at Lubbock, which is worth \$20 an acre or \$25, should be brought by reason of cheap rates into competition with the man at Waco on land that has been owned and farmed for generations; why, for instance, it should be appreciated at the expense of the railroads. I think a man on that cheap land out there can raise cotton cheaper than down here.

That is only one instance, and the details of it would have to be thrashed out, but I think it is a great injustice on the railroads when they build out into a section of that kind, to develop it and make something there where there was nothing before, that they should be obliged to do the business at the same rate that they do it for smaller distances in other parts of the State. I do not think there is anybody here prepared to stand up and defend that principle. I never found anybody yet that did.

MR. SANSOM: Take, for instance, that western branch, where you operate a little branch, a little road like the one from Miles out to Paint Rock—you have railroads there just the same, one from Brady to Eden—isn't it a fact that since you have built those roads and operated them that you are moving freight from Brady to Eden at exactly the same price that you did—

MR. RIPLEY: From Lometa?

MR. SANSOM: I mean to say from Paint Rock to Eden as you did from Brady, and, we will say, Ballinger?

MR. RIPLEY: Just exactly.

MR. SANSOM: That you are running your trains, delivering their freight out there and pulling it back?

MR. RIPLEY: Yes.

MR. SANSOM: At the expense of whom, the people that are paying these rates here and the railroads both, is that right?

MR. RIPLEY: Only just at the expense of the railroad; they used to haul it before.

MR. SANSOM: Did they—if they give you as much freight as you are entitled to, then it is the people that are taking care of it?

MR. RIPLEY: They don't give it to us. We have built a railroad out there in their back yard and saved them one hundred miles of wagon haul and do not get any more than before.

MR. SANSOM: In other words, they want you by that system to make an acre of land out there to be worth as much as it is in Dallas County, if it is worth \$100 an acre?

MR. RIPLEY: Exactly.

MR. SANSOM: Then I take it you would favor an increase of rates, which you say is necessary, and you have converted some people at least to that line of thinking, that it should be made on the basis of mileage?

MR. RIPLEY: Yes.

MR. SANSOM: Instead of —

MR. RIPLEY: Instead of this blanket business. I think that the blanket business as applied to that section of the State, in fact to the entire State west of Fort Worth, over the whole State west, is wrong. I do not see any reason why we should haul cars of groceries from Galveston to Amarillo for the same rate we haul them to Fort Worth.

MR. SANSOM: As a matter of fact, isn't that one of the main reasons why your road can not and is not making money, is this long haul?

MR. RIPLEY: Yes.

MR. SANSOM: At the same rate?

MR. RIPLEY: I think it is. I am inclined to think so.

MR. DUFF: I have been requested to ask you how the personal-injury recoveries in the State of Texas compare with the personal-injury recoveries against your line in other States.

MR. RIPLEY: I do not recall at the moment the exact ratio; very much larger here. My recollection is the last time we looked that up our loss and damage claims per mile, the settlements of personal injuries down here per mile were about three times as much as the average of our entire railroad in fourteen States. I suppose everybody knows about the loss and damage industry in Texas; it is an industry; that is the correct name to give it. It may be felonious, but it is an industry.

MR. DUFF: Have you any suggestion to make as to how that situation can be remedied?

MR. RIPLEY: Why, I would rather that a lawyer should pass on that question. I notice that Mr. Lovett made some suggestions along that line. The way to remedy a situation of that kind I should say primarily would be to remove the cause. These suits

are mainly incited by lawyers looking for fees, what we call in the North "ambulance chasers."

MR. SANSOM: In that loss and damage estimate, do they separate that from personal injury?

MR. RIPLEY: Personal injury is a class by itself; the loss and damage to freight is another matter.

MR. SANSOM: All included in this?

MR. RIPLEY: Not at all; just personal injury.

MR. SANSOM: It is just personal injury then?

MR. RIPLEY: Yes.

MR. SANSOM: I was going to make a count there by reason of hauling more perishable freight in this country — live stock, for instance.

MR. RIPLEY: No, our loss and damage to freight is no more and I think it is less on the Gulf, Colorado & Santa Fe railroad than the average on others.

MR. SIMPSON: In some States the loss by personal injury is limited, is it not, by law?

MR. RIPLEY: Yes, it is.

MR. SIMPSON: There is no limit, in this State, is there, to the judgment a man can get?

MR. RIPLEY: No, I think not. It is a matter for the jury, you know, and in this State it has been the fashion for juries to return exorbitant verdicts. I think it is a part of the old prejudice against corporations and against railroads that has been rampant here in this State for many years, originally that, and then it has turned out to be profitable to certain individuals. I should think the way to get at it would either be to prohibit a lawyer from taking a case of that kind on a contingent fee, or else specify that the fee for such a case should be limited to a certain amount. The worst feature of all this business is that the man in whose favor the verdict is rendered does not get the money; the lawyer hunts him up and starts him in on the claim, and he gets all he can out of the jury and then keeps the most of it himself. Legislation of that kind could be in two ways; it could specify a maximum

amount or it could take away the incentive that the lawyer has. I do not think there would be any objection if there was a law specifying exactly what each injury should be paid, and paid quick. We would rather pay it quick and get it out of the way. But when you are liable to have a verdict of anywhere from \$5,000 to \$40,000, according to the way the jury thinks about it or the influence that the lawyer has on the jury, it is very unsatisfactory.

MR. DUFF: Has any other gentleman any inquiry to make of Mr. Ripley?

MR. CAIN: I would like to know if the personal-injury claims go into the cost of operation?

MR. RIPLEY: Yes, sir.

MR. CAIN: And are charged up as cost of operation?

MR. RIPLEY: Certainly.

MR. DUFF: Mr. Radford, would you like to ask Mr. Ripley some question?

MR. RADFORD: No, sir, I think not. I am not in the railroad business much; I don't know much about it. Of course, there is one question that was asked by these gentlemen that I would like to have a little information on. It has been said that in building railroads they get no income until the country develops and increases the tonnage, and the main lines make up for whatever loss there might be on that; I would like to know if that would be the case or not.

MR. RIPLEY: Of course, Mr. Chairman, that is the object with which those extensions are built; they are built with the idea that they will furnish additional business for the lines we already have in the State.

MR. RADFORD: That is the point.

MR. RIPLEY: That is exactly the point, but it was not expected that they would do it free of cost. Now, when you build three or four hundred miles of railroad costing \$30,000 or \$35,000 a mile you have got a big amount of money in there, and the amount that those lines can gather for the next five or even ten years and

contribute to the main line is going to be very inadequate towards paying interest and it won't do it.

MR. RADFORD: It would depend on development, of course.

MR. RIPLEY: It will depend on development, of course. But what is the use of investing that amount of money for the purpose of handling business without any additional pay, and why, as a matter of equity, should anybody be expected to haul stuff say from Lubbock to Galveston at two or three cents a hundred pounds more than they get from Waco to Brenham?

MR. RADFORD: I don't know; that is the question that I want information on; if the tonnage did not pay for it, the increased tonnage, that might be a consideration; I do not know.

MR. RIPLEY: At present it can not do anything of the kind; it is a new country. Take Lubbock as an example — that is only one town — but Lubbock may possibly get together 3,000 bales of cotton this year.

MR. RADFORD: Possibly so.

MR. RIPLEY: That is pretty well, but it is the first time we have had any, practically; it could not possibly grow into anything that would make the thing pay on the same basis. We expect that in building those lines; we do not expect to earn any interest on them in the first five years; we can not; the whole thing is done for the future; but in the meantime, shall we be penalized? Why shouldn't we get some decent return for what we do?

MR. RADFORD: I don't know; they are not forced to build railroads in territory they do not think will pay, and they do it on their own motion, and if they do it they have got to depend for their pay from some source, either from development, or some other lines connected with it.

MR. RIPLEY: That may be true; that is exactly what we have been doing; but if we should all act on that principle and not do anything until we are forced to do it, not gamble in any way on the future, you would not have much progress here in the State and you would not get much of anywhere.

MR. SANSOM: As a matter of fact this fellow out there is going to do some business with you where he had to haul it before; oughtn't he to divide his expense a little?

MR. RIPLEY: It would only be fair.

MR. RADFORD: I have never kicked at freight rates very much; I have always kicked about discrimination. I do not regard them as equal and fair on cotton as compared with other classes of freight. We have never made any fight on the railroads on account of the actual money they made. All we have been against the railroads for was on the discrimination; we feel they charge more on cotton than any other class; we did not know how that was, we are not making any fight; we want a good price for cotton; we are willing for the railroads to make something, too. If we can get the cooperation of everybody we will be satisfied, we have all we want. I do not know anything about that and do not pretend to know.

MR. RIPLEY: Well, I would rather see the rates raised on other things than to depend on cotton, myself. Unfortunately, cotton is the biggest single item that there is in the State, and the railroads largely have to depend on the cotton earnings because the population is not large enough to take large amounts of other things.

MR. RADFORD: That is the trouble; they all unload it on cotton.

MR. RIPLEY: As far as that is concerned, in every country that I ever heard of, the wealth comes out of the ground, and the farmer is the foundation stone of the whole business; we all live off of him; all society is founded with him as the cornerstone; no getting away from that, nevertheless we are necessary to him as well as he is to us.

MR. RADFORD: Yes, I think we are getting along better and understand things better than we used to, anyway. I think we will get better conditions after awhile than we have now. However, we are making no fight along that line. All we want is a fair price for what we have got, and we want the other fellow

to have the same, no matter what he has invested, we want him to make something on what he has invested.

MR. RIPLEY: Well, that is what we all want; that is what we all pray for, is big crops and good prices.

MR. CAIN: Can I ask you whether or not the conditions you speak of as existing with reference to the Santa Fe lines obtains with reference to other systems in Texas, that is, the Texas lines carried by the companies outside?

MR. RIPLEY: Yes, I think so. I do not know exactly to what you refer; I do not think there is much difference, except I suppose the Santa Fe line and perhaps the Southern Pacific have gone ahead a little faster and spent more money and taken more risks.

MR. CAIN: I understood you to say that the Gulf, Colorado & Santa Fe was being carried by the Atchison.

MR. RIPLEY: O yes; it has been ever since I have known anything about it.

MR. CAIN: The question I would like to ask you is whether or not you are prepared to say that the same thing obtains with reference to other lines in Texas, system lines which the Texas companies —

MR. RIPLEY: I could not say as to that; I think it is true as to some of them; I imagine, without knowing much about it, that there are some of them that are exactly in the same situation, but having troubles of my own, I have not paid much attention to other people's misfortunes.

MR. CAIN: You do not think it is a situation peculiarly applicable to the Santa Fe?

MR. RIPLEY: No, I do not.

MR. DUFF: Has any commissioner or gentleman present —

MR. RADFORD: That is all I care about.

MR. DUFF: Has any Commissioner or gentleman present any inquiry he would like now to make of Mr. Ripley further?

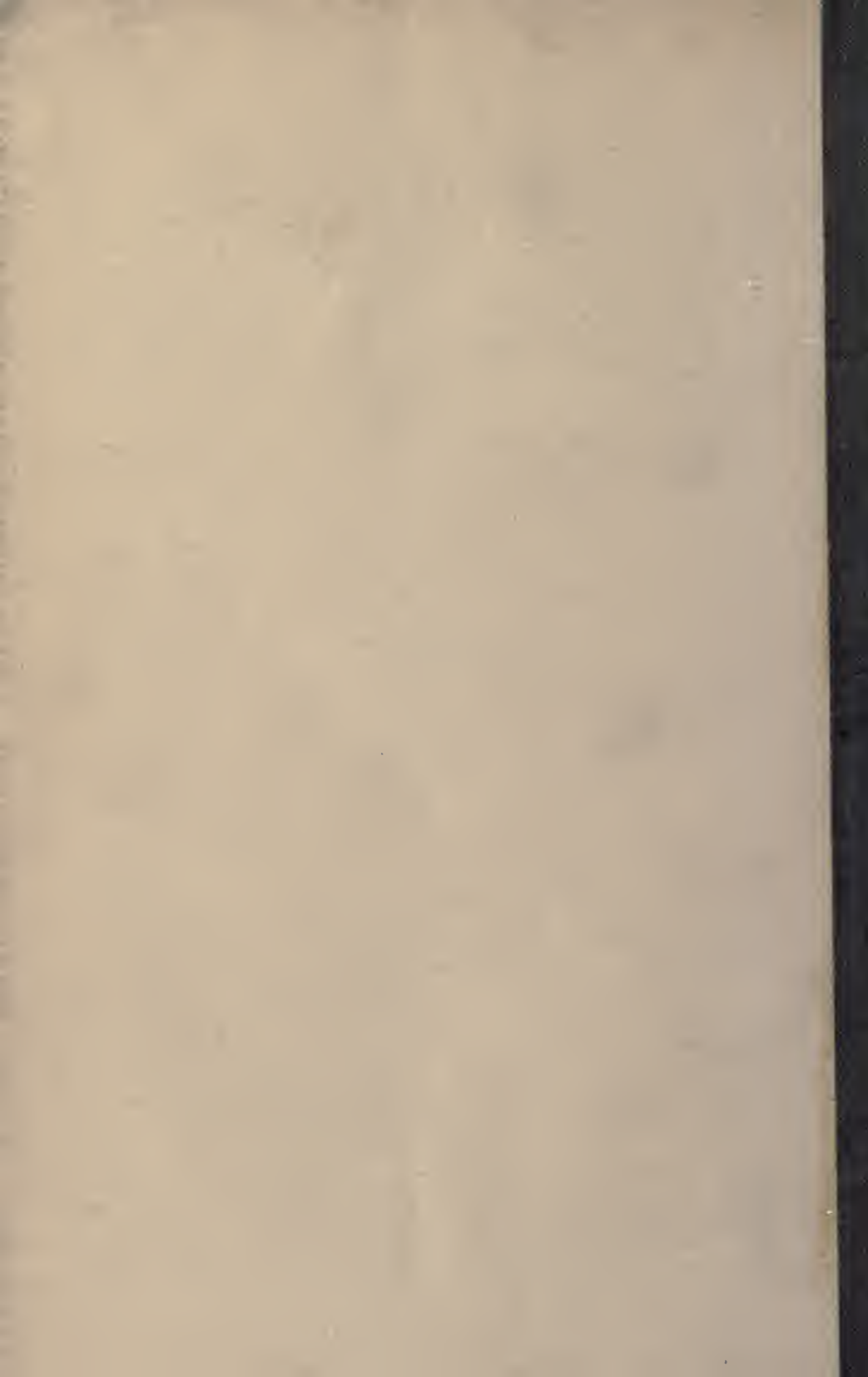
We are deeply indebted to you, Mr. Ripley, for coming to

Texas and meeting with our Commission. What we want is truth, "light without heat," as Mr. Trumbull says.

MR. RIPLEY: I am very glad to have had the opportunity of meeting with you; I have enjoyed it very much. I wish I could have been a little more eloquent, but I can not help that; I was born with that defect.

MR. DUFF: We are not trying to collect eloquence; we are trying to collect facts and hope to operate on those facts as a basis.





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